

PROB. 12B
(7/93)

ORIGINAL

United States District Court

for the

DISTRICT OF HAWAII

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII
APR 15 2008
at 3 o'clock and 15 min. M.
SUE BEITIA, CLERK

**Request for Modifying the Conditions or Term of Supervision
with Consent of the Offender**

(Probation Form 49, Waiver of Hearing is Attached)

Name of Offender: SAMU FAALOGOIFO

Case Number: CR 04-00291SOM-01

Name of Sentencing Judicial Officer: The Honorable Susan Oki Mollway
U.S. District Judge

Date of Original Sentence: 12/14/2005

Original Offense: Conspiracy to Distribute and Possess With Intent to Distribute
5 Grams or More of Methamphetamine, in violation of 21 U.S.C.
§§ 846 and 841(a)(1), a Class B felony

Original Sentence: Fifty-one (51) months imprisonment to be followed by five (5) years supervised release with the following special conditions: 1) That the defendant shall participate in and comply with substance abuse treatment which includes drug and alcohol testing in a program approved by the Probation Office. The defendant is to refrain from the possession and/or use of alcohol while participating in substance abuse treatment; 2) That the defendant execute all financial disclosure forms, and provide the Probation Office and the Financial Litigation Unit of the U.S. Attorney's Office access to any requested financial information to include submitting to periodic debtor's examinations as directed by the Probation Office; 3) That the defendant shall submit his person, residence, place of employment, or vehicle to a search conducted by the U.S. Probation Office at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of supervision. Failure to submit to a search may be grounds for revocation. The defendant shall warn any other resident that the premises may be subject to a search pursuant to this condition.

Type of Supervision: Supervised Release Date Supervision Commenced: 11/5/2007

PETITIONING THE COURT

[X] To modify the conditions of supervision as follows:

4) The defendant shall refrain from the possession and use of alcohol.

CAUSEViolation NumberNature of Noncompliance

1.

That on or about 3/29/2008, the subject consumed alcohol, in violation of Special Condition No. 1.

The subject began his term of supervised release on 11/5/2007. Immediately thereafter, the subject was referred to the Drug Aftercare Program (DAP) at Hina Mauka. As a participant in DAP, the subject is not allowed to consume alcohol while in treatment. Additionally, the use of alcohol while in treatment is prohibited by Special Condition No. 1.

On 3/30/2008, Sunday morning at approximately 7:30 a.m., this officer conducted an unannounced visit at the subject's residence. Upon answering the door, this officer noticed that the subject's eyes were red and bloodshot and that his breath smelled strongly of alcohol. Upon being questioned, the subject admitted to this officer that he had been drinking. The subject explained that he went to a club to celebrate his friends birthday and made the mistake of drinking alcohol. The subject admitted that he drank more than he should have and was suffering from a "hangover." He further acknowledged that he was aware that drinking was prohibited because he was in drug treatment. The subject apologized for his actions and noted that he would refrain from drinking in the future.

As background information, a review of the subject's criminal history reflects that he has a conviction in 2002 for Driving Under the Influence of an Intoxicant. Additionally, the Presentence Report reflects that the subject admitted that he has been drinking alcohol since age 16 and that he was a heavy drinker.

The subject's counselor at Hina Mauka has been notified of the subject's alcohol use and will address this issue in individual counseling sessions. It is noted that the subject is otherwise compliant with the terms of supervision. He maintains full-time employment as a landscaper and presents a positive attitude.

In considering the above-noted factors, it is recommended that the Court allow the subject to continue with substance abuse treatment at Hina Mauka. As a corrective measure, it is recommended that the Court impose an alcohol prohibition for the remainder of the term of supervised release.

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Attached is a signed Waiver of Hearing to Modify Conditions of Supervised Release. The subject waives his right to a hearing and to assistance of counsel and agrees to the modification of the conditions of supervised release. Additionally the subject's attorney and the U.S. Attorney's Office have been notified of the proposed modification and have no objections.

Respectfully submitted by,



MARK T. NUGENT
U.S. Probation Officer

Approved by:

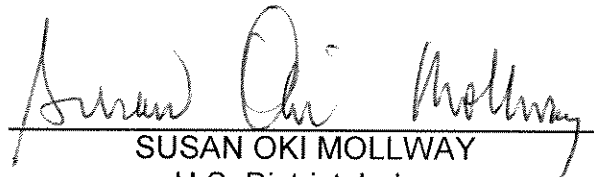


TIMOTHY M. JENKINS
Supervising U.S. Probation Officer

Date: 4/8/2008

THE COURT ORDERS:

- ☒ [X] The Modification of Conditions as Noted Above
☐ [] Other



SUSAN OKI MOLLWAY
U.S. District Judge

APR 14 2008

Date

PROB 49
(5/96)

United States District Court

District of Hawaii

Waiver of Hearing to Modify Conditions of Probation/Supervised Release and/or Extend Term of Supervision

I have been advised and understand that I am entitled by law to a hearing and assistance of counsel before any unfavorable change may be made in my Conditions of Probation and Supervised Release and/or my period of supervision being extended. By "assistance of counsel," I understand that I have the right to be represented at the hearing by counsel of my own choosing if I am able to retain counsel. I also understand that I have the right to request the court to appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel of my own choosing.

I hereby voluntarily waive my statutory right to a hearing and to assistance of counsel. I also agree to the following modification of my Conditions of Probation and Supervised Release and/or to the proposed extension of my term of supervision:

- ☐ To extend the term of supervision for years, for a total term of years.
☒ To modify the conditions of supervision as follows:

4 *The defendant shall refrain from the possession and use of alcohol.*

Witness: _____

MARK T. NUGENT
U.S. Probation Officer

Signed: _____

SAMU FAALOGIOFO
Supervised Releasee

4/8/08

Date

NOTICE REGARDING MODIFICATION OF CONDITIONS

The defendant understands that any modification of court-ordered conditions is not a waiver of those conditions or of any consequence of violating those conditions. Violations that have preceded this or any modification of conditions may be considered by the court as a basis for revoking supervised release or probation, especially, but not only, in the event of a future violation, whether any such future violation is similar to or different from any preceding violation.

The absence of this notice does not confer, and should not be interpreted by the defendant as conferring, any rights on the defendant. The absence of this notice does not indicate, and should not be interpreted by the defendant as indicating, any position by the court or by the defendant. Even in the absence of this notice, supervised release or probation may, in the future, be revoked based on violations occurring before this or any other modification of conditions.

Agreed to and acknowledged:


Samu Aalogoi

Defendant

Print Name: _____

Date: 4/10/08